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RIGHTS OF THE CHILD

Report of the Working group on a draft optional protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts on its fourth session

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Introduction

1. The Commission on Human Rights, in paragraph 14 of its resolution 1997/78, requested the working group on a draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts to meet for a period of two weeks, or less if possible, prior to the fifty-fourth session of the Commission, in order to finalize the draft optional protocol.

2. The Economic and Social Council, in its decision 1997/281, approved the Commission's request.

I. ORGANIZATION OF THE SESSION

A. Opening and duration of the session

3. The fourth session of the working group was opened by the representative of the Office of the High Commissioner for Human Rights, who made a statement. During the session the working group held seven plenary meetings from 2 to 10 February and on 19 March 1998. The working group adopted its report on 19 March 1998.

B. Election of the Chairman-Rapporteur

4. At its 1st meeting, on 2 February 1998, the working group elected Mr. Nils Eliasson (Sweden) Chairman-Rapporteur.

C. Participation

5. The representatives of the following States members of the Commission attended the meetings of the working group, which were open to all members of the Commission: Argentina, Austria, Brazil, Canada, Chile, China, Cuba, Czech Republic, Denmark, El Salvador, France, Germany, Guatemala, India, Ireland, Italy, Japan, Malaysia, Mexico, Morocco, Pakistan, Peru, Philippines, Poland, Republic of Korea, Russian Federation, South Africa, Sri Lanka, Sudan, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

6. The following States, non-members of the Commission, were represented by observers: Algeria, Australia, Bahrain, Belgium, Colombia, Costa Rica, Dominican Republic, Egypt, Ethiopia, Estonia, Finland, Iran (Islamic Republic of), Netherlands, New Zealand, Nigeria, Norway, Portugal, Romania, Slovakia, Spain, Sweden, Syrian Arab Republic, Thailand, Turkey.

7. The following non-member States of the United Nations were also represented by observers: Holy See, Switzerland.

8. The following United Nations bodies were represented by observers: United Nations Children's Fund (UNICEF) and the Office of the United Nations High Commissioner for Refugees (UNHCR).

9. The International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies were also represented by observers.

10. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers: Amnesty International, Associated Country Women of the World, Coalition against Trafficking in Women, Friends World Committee for Consultation (Quakers), Human Rights Watch, International Council of Women, International Federation of Social Workers, International Federation Terre des Hommes, International Save the Children Alliance, International Service for Human Rights, New Humanity and the World Christian Life Community.

11. The following other non-governmental organizations were represented: ACT Project and Dutch Coalition for the Rights of Children in Armed Conflict.

D. Documentation and organization of work

12. The working group had before it the following documents:

E/CN.4/1998/WG.13/1	Provisional agenda
E/CN.4/1998/WG.13/2 and Add.1-2	Report of the Secretary-General prepared pursuant to paragraph 14 (a) of Commission on Human Rights resolution 1997/78: comments on the report of the working group
E/CN.4/1997/96	Report of the working group on a draft optional protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts on its third session

13. The working group adopted its agenda, as contained in document E/CN.4/1998/WG.13/1, at its 1st meeting, on 2 February 1998.

14. At the 2nd meeting, on the proposal of the Chairman-Rapporteur, the working group decided, in order to speed up the drafting process, to continue its work in informal meetings, in the form of open-ended consultations with the Chairman. Such informal sessions, headed by the Chairman, were held from 3 to 9 February 1998.

15. The Chairman-Rapporteur drew the attention of the working group to the informal paper which he had offered to the Commission on Human Rights in April 1997 when introducing the report of the Working Group on its third session and which contained his perception of the draft optional protocol. This paper was subsequently circulated among delegations and served as one of the bases for informal open-ended consultations conducted by the Chairman, in the course of which it was partly revised. It was agreed to annex to the report of the working group the revised version of his paper entitled "Chairman's perception".

II. GENERAL DISCUSSION

16. At its 1st, 2nd and 3rd meetings, on 2 to 4 February 1998, the working group, at the invitation of the Chairman-Rapporteur, held a general discussion on questions relating to the draft optional protocol. The topics discussed included the question of the minimum age of persons participating in hostilities, the issue of direct or indirect involvement in hostilities, the age of recruitment, be it voluntary or compulsory, into the armed forces, and whether or not a clause should be included in the draft optional protocol preventing child recruitment by non-governmental armed groups.

17. Several representatives of non-governmental organizations appealed to the working group to assume fully the serious responsibility to help bring to an end the deplorable practice of the use of children in combat through setting a clear minimum age of 18 years for all forms of recruitment into the armed forces and for participation in hostilities. It was pointed out that in recent years the involvement of children in many armed conflicts had continued unabated and even increased as conflicts were prolonged, economies collapsed, and light weapons proliferated.

18. Many of the speakers also emphasized that the working group was expected and requested to set clear, workable standards which can have a real impact in addressing the problem of preventing children from being recruited and used in combat. It was stated that the time had come to demonstrate international solidarity on behalf of children in armed conflicts. This required the adoption of a multitude of measures and a strong political will to make them work. The drafting of the protocol was one such measure.

19. The participants agreed that the key issue of the draft optional protocol was that of the age limit for participation in hostilities. The vast majority of delegations expressed their support for a clearly designated limit of 18 years for participation (see paragraph 75 below), with most of them favouring this limit being applied to all forms of participation, either direct or indirect. It was pointed out that establishing 18 as the minimum age would be consistent with the general age of majority under the Convention on the Rights of the Child, as well as in most national legislations.

20. An appeal was made to States that were not yet in a position to accept the 18-year age limit not to prevent its adoption by other Governments. The optional character of the proposed protocol was again emphasized in this connection, and it was pointed out that the future instrument would have no binding consequences on countries which chose not to ratify it.

21. Several delegations indicated their readiness to join consensus despite many domestic legal problems which would have to be overcome.

22. The opinion was expressed by several delegations that new standards, in order to be enforceable, should enjoy the support of the vast majority of States. From that point of view, the establishment of an 18-years age limit could not be considered as a practical and practicable proposal acceptable to all. It was argued that the real problem lay not in the debate about the higher standard but in the lack of implementation of existing standards, which would eliminate the real problem - the involvement of those under 15 in armed

conflict. It was suggested that, in order to set an achievable goal and to attract the maximum number of States willing to adhere to the protocol, the working group should designate 17 years as the minimum age for participating in hostilities. This view was shared by several delegations.

23. A fundamental difference among States on the question of the minimum age for participation in hostilities was therefore noted by the working group.

24. Most speakers believed that all participation, whether direct or indirect, should be prohibited. They considered that the inclusion of the word "direct" would weaken the very core of the protocol, since under such a formulation children could still be found in war zones performing hazardous duties that placed them at great risk. Other participants held that a specific reference in the protocol to "direct" participation was necessary.

25. While some delegations expressed their readiness to look for solutions which enjoyed the broadest possible support, they felt that the working group should not accept an unsatisfactory solution only for the sake of compromise. The purpose of the working group, it was reiterated, was to provide improved and higher international standards for protecting children.

26. A certain illogic was noted by some speakers in the approach of those Governments which, while recruiting and deploying children under 18 years of age as soldiers, banned the sale of alcohol and tobacco to them, or prohibited their employment in those spheres of industry which were likely to jeopardize their health or safety.

27. It was strongly stated by some participants that preventing recruitment of children would prevent their participation in hostilities. They opposed the idea of focusing only on participation and leaving the question of recruitment aside, which they considered the equivalent of a ban on the use of landmines while permitting their continued production. It was felt that recruitment was precisely the point at which it was most feasible to attack the problem of preventing the involvement of children in armed conflicts.

28. Many speakers considered that what was called voluntary recruitment was in fact, in very many cases, not a free choice but the result of indoctrination, incitement to vengeance, poverty, destitution, severe pressure, the prospect of physical protection, or simply immaturity. It was therefore strongly felt by many participants that the minimum age for recruitment into the armed forces in all circumstances should be set at 18 years and without any distinction being applied between compulsory and voluntary recruitment and regardless of parental consent. The opinion was expressed that the requirement of parental consent was not a safeguard and was irrelevant in many situations.

29. It was also pointed out in that connection that monitoring and enforcement would be difficult if the age limit were different for participation and for recruitment. The age should therefore be 18 for both situations.

30. Other participants believed that the minimum age for voluntary recruitment into the armed forces should be set at 17 since that was already

the practice in many countries. It was also stated that the imposition of an 18-years age limit for any recruitment would undermine an important accessory purpose of military service, which is educating young people. In many countries, the function of military service is not limited to defence: it also gives young people an opportunity to acquire knowledge and skills which they would be able to utilize afterwards. It was felt setting a higher age limit for recruitment would limit access to further education by young people who lacked the financial means to continue their schooling.

31. It was pointed out in that connection that acceptance of the 18-years age limit for participation in hostilities and recruitment into the armed forces would not prevent persons under 18 from entering military schools. It would, however, prevent schools from being used as an excuse or cover for the participation of children under 18 in hostilities.

32. Most delegations believed that the protocol should reflect the reality of the situation in the world today, where most armed conflicts take place within States and most under-age combatants serve in non-governmental armed groups. The future protocol should therefore also address, in its operative part, the situation of child soldiers recruited by non-governmental entities.

33. According to another view, the protocol should not imply recognition of non-governmental armed groups. A preference was voiced for this issue to be addressed in the preambular part of the document only.

34. Some NGO participants, when outlining the context of the use of children in armed conflict as experienced by their organizations, referred to the particular vulnerability of displaced children, especially when they were separated from their families. It was pointed out that refugee camps sometimes became centres for forcible recruitment of child soldiers. Feeling unsafe and left to their own devices, some refugee children have reportedly volunteered to join armed groups hoping to find there physical protection and economic security.

35. It was also stated that the problem of child soldiers was not a merely military or patriotic issue, but also a matter of exploitation and poverty. Reference was made to reports which clearly show that, irrespective of the method of recruitment, child soldiers very often come from the poor and disadvantaged groups of society with lower educational prospects or from groups with disrupted or non-existent family backgrounds. Furthermore, it was pointed out that child soldiers were not all boys; there were also girls. In addition to being involved in combat and suffering the same treatment as boys, girl soldiers were very much at risk of sexual violence and exploitation, AIDS and unwanted pregnancy.

36. The social cost of child soldiers was very high. These children were not gaining an education, skills, or any knowledge that they would normally acquire by staying with their families. Instead, they learned how to use a gun. One of the negative results of the phenomenon of child soldiers had been an increase in armed robberies in the affected societies.

37. At the 4th meeting, on 5 February 1998, the Chairman read out a message from Mr. Olara Otunnu, Special Representative of the Secretary-General for

children in armed conflict. Mr. Otunnu strongly supported the proposal to raise the minimum age for recruitment into armed forces or armed groups, and participation in combat to 18. He considered that an optional protocol, adopted by consensus, would send a very important and much needed message concerning the protection of the rights and welfare of children in situations of armed conflict, and urged all delegations participating in the working group to join in that consensus.

38. At the 5th meeting, on 9 February 1998, the United Nations High Commissioner for Human Rights, Mrs. Mary Robinson, addressed the working group. The High Commissioner noted the growing consensus for setting the minimum age for all forms of participation in hostilities at 18 and welcomed the fact that some delegations had indicated their readiness to adjust their positions. She supported the views of those participants who considered that the working group should provide improved and higher international standards and that national legislation should not be presented as an obstacle to the elaboration of more advanced international standards, especially bearing in mind the optional character of the proposed protocol. Finally, the High Commissioner expressed the hope that those Governments which were still reluctant to accept a minimum age of 18 would reconsider their position.

Particular views expressed by some delegations

39. The delegation of Ethiopia reiterated its strong support for an optional protocol to the Convention on the Rights of the Child that would prohibit the participation of children under the age of 18 in armed conflicts, without qualifying the nature of that participation. While compulsory recruitment should be totally abolished, the age limit for voluntary recruitment into the armed forces should be set at 18. The prohibition on participation and recruitment should also apply to parties to a non-international armed conflict. The obligation to ensure compliance with the instrument should rest with the States Parties. Since the optional protocol had a very specific purpose and objective, no reservations should be admissible. The delegation's support for significant improvements in the standards of protection for children was based on its experience of the protracted civil war that devastated the country until 1991.

40. With regard to the paper entitled "Chairman's perception", the representative of Pakistan stated that in article 2, paragraph 2, her delegation would like the age of voluntary recruitment to be kept at 16. Sixteen-year-olds voluntarily entered the armed forces in Pakistan because of the job stability, training and educational opportunities offered to them, providing in some cases a livelihood for themselves and their families. Lowering the age could cause severe social dislocation for individuals and families. Her delegation would also favour the retention of article 2, paragraph 3, as it covered educational and vocational training schools run by the military. The delegation of Pakistan did not consider article 3 to be relevant to this protocol as it raised some issues of legality and legal jurisdiction. But in view of the sad reality of children being used in some conflicts, it agreed to accept language on the use of children by armed groups. However, the delegation insisted and would continue to insist that in any document on armed conflict it was essential that there be explicit mention

of peoples' right to self-determination and their right to use all legitimate means to fight foreign occupation and alien domination. To this end, her delegation offered the following language of article 3, paragraph 3:

> "The application of the present provisions under the protocol shall be without prejudice to the struggle of peoples fighting for their right to self-determination and against foreign occupation and alien domination".

When it was firmly stated by some delegations that a direct reference in the operative part to self-determination, foreign occupation and alien domination would not be acceptable, the delegation of Pakistan offered the following language:

> "The application of the present provisions of the protocol is without prejudice to the rights and obligations of peoples flowing from the principles of the Charter of the United Nations and international humanitarian law".

On the understanding that reference to the concept of self-determination would be acceptable only in the preamble, the delegation of Pakistan offered the following two paragraphs from General Assembly resolution 2649 (XXV) of 30 November 1970, to be inserted in the preamble as a compromise:

> "Affirming the legitimacy of the struggle of peoples under colonial and alien domination recognized as being entitled to the right to self-determination to restore to themselves that right by any means at their disposal,
>
> "Recognizing the rights of peoples under colonial and alien domination in the legitimate exercise of their right to self-determination to seek and receive all kinds of moral and material assistance in accordance with the resolutions of the United Nations and the spirit of the Charter of the United Nations."

Since this was again found unacceptable by several delegations, the delegation of Pakistan thought that consensus could be emerging on the following language:

> "Recognizing the rights of peoples under colonial and alien domination in the legitimate right to self-determination in accordance with the Charter of the United Nations and in view of the special needs of the protection of children in armed conflicts."

As this was opposed by some delegations, the delegation of Pakistan agreed to work on compromise language based partially on the language of the Charter as follows:

> "Recalling the provisions in the Charter of the United Nations concerning equal rights and self-determination of peoples, peaceful settlement of disputes and the duty of Member States to refrain in their

international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner, inconsistent with the purposes of the United Nations".

The delegation of Pakistan expressed regret that such language was also not acceptable to some delegations and that its concessions were not met with corresponding gestures: each time it tried to bridge the gap, there was no political will to take into account the legitimate concerns of the delegation. It therefore requested that the eighth preambular paragraph in the "Chairman's perception" paper to be placed in square brackets for further discussions.

The representative of Pakistan felt that further discussions were also required on a number of outstanding issues and proposed that the working group should strongly recommend to the Commission on Human Rights to authorize another session so the working group could achieve consensus. In her view, legal obligations could not be entered into by States on the basis of the "Chairman's perception" but only on the basis of a negotiated consensus text. Since the "Chairman's pereception" was only his, the paper could not be annexed to the report of the working group.

41. The delegation of Switzerland welcomed the "Chairman's perception" paper annexed to the report of the working group. In view of that document, which would constitute a reference tool for the future work of the group, the Swiss delegation wished once again to state its position on the basic issues addressed by the working group:

(a) The optional protocol was to fill a gap in the Convention on the Rights of the Child and should establish an age limit of 18 years for the participation of children in hostilities. The distinction between direct and indirect participation in hostilities should be rejected;

(b) With regard to voluntary recruitment for regular troops, the age limit should be 18 years;

(c) In the event that the optional protocol included an exception to the rule covering voluntary recruitment for purposes of education and vocational training in establishments operated by or under the control of the armed forces, particular attention should be paid to the implementation of that exception, in order to prevent it from allowing any circumvention of the principle of the established age limit of 18 years;

(d) It was essential that the optional protocol should contain a provision prohibiting the recruitment of children under the age of 18 by groups of combatants which were not part of the regular armed forces.

42. The representative of Japan stated that under the Constitution of his country, Japanese people forever renounced war as a sovereign right of the nation and expressed the desire for peace at all times. This desire for peace specified in the Constitution of Japan went beyond its borders. In particular, the Japanese people recognized that all peoples of the world had the right to live in peace, free from fear and want. In that respect, the Government of Japan was seriously concerned at the effects that armed conflicts had on children in many parts of the world. It was deplorable that

innocent children had been increasingly involved in such conflicts and sometimes used as soldiers. After hearing very impressive statements made by the High Commissioner for Human Rights, specialized agencies and NGOs, the Japanese Government's conviction that the problem must be addressed had been strengthened. The delegation supported the working group and hoped for the early adoption of the optional protocol. Strong support was also expressed for the "Chairman's perception" paper, and for Japan article 2, paragraph 3, was indispensable. Although the perception paper was not satisfactory for all the participants, it was the only solution if the optional protocol was to be adopted at an early stage. Finally, the delegation of Japan expressed its gratitude to the Chairman-Rapporteur for his hard work in seeking an agreement.

43. The representative of Denmark expressed the support of his delegation for the age limit of 18 years for any form of participation in hostilities. His delegation also favoured the 18-years age limit for compulsory recruitment and indicated that it would be able to join consensus on 18 years also for voluntary recruitment. It was of utmost importance that the optional protocol also address the issue of recruitment by armed groups other than governmental forces. While opposing, as a matter of principle, the possibility of reservations to the optional protocol, Denmark would, for the sake of compromise, go along with article 5 of the "Chairman's perception" paper. Similarly, although the delegation of Denmark would prefer slightly different wording in some of the articles of the perception paper, it would be ready to accept the draft optional protocol as presented in the Chairman's paper on the understanding that it was a near-consensus text resulting from a long negotiation process. His delegation would like the perception paper to be annexed to the report of the working group.

44. The observer for Portugal expressed the disappointment of her delegation that no consensus could have been achieved at the present session of the working group. Her delegation supported the "Chairman's perception" text (which should be annexed to the report) as a way to contribute to reaching a consensus. Such a position would, however, constitute a major compromise with regard to those values which should guide the drafting of the protocol, in particular the need to ensure the best interests of the child. The delegation of Portugal would welcome the age limit of 18 years to be set for participation in hostilities, without a distinction being made between direct and indirect participation. Any such distinction would be controversial and subjective, allowing for different interpretations and diminishing the protection of children. It would also constitute a step backwards in relation to existing standards of international humanitarian law, namely those contained in Additional Protocol II to the Geneva Conventions of 1949. Her delegation was also convinced that no reservation to the protocol should be permitted. Being an optional protocol, this instrument should constitute a simple option for States Parties to the Convention on the Rights of the Child that wished to set a higher standard in the protection of children in situations of armed conflict.

45. The observer for Amnesty International stated that his organization was campaigning for the adoption of a draft optional protocol which would include provisions that:

(a) Prohibited persons below 18 years of age from participating in hostilities;

(b) Prohibited the compulsory or voluntary recruitment of persons below 18 years of age into governmental armed forces; and

(c) Prohibited the recruitment of persons below 18 years of age into armed opposition groups.

He pointed out that international law increasingly used the benchmark of 18 years as the age below which special protection should be afforded. The involvement of children in armed forces was not inevitable. The recruitment and participation of children in armed conflicts was always a decision made by Government and/or by leaders of armed opposition groups. While the purpose of this human rights protocol should be to protect children from involvement in armed conflicts, the language used in article 1 only required States Parties to take "feasible measures", and even then only protected persons under 18 years of age who took a "direct part" in hostilities. This could mean that the child soldiers who were not taking a "direct part" in hostilities but who were in the area of armed conflict became legitimate targets for attack. Amnesty International considered that the purpose of new human rights standards was to significantly develop international law and elaborate clear obligations for States. It believed that the standard required of States in this protocol must be no less rigorous than those in other human rights treaties. States must ensure that persons who had not reached 18 and who were members of governmental armed forces did not participate in hostilities. The practice in recent years of drafting standards by consensus had given each Government an opportunity to block action to defend and protect human rights. Drafting groups could become hostage to a few States and were all too often faced with the stark choice of accepting the lowest common denominator or abandoning the drafting exercise. But this need not be the case. Consensus decision-making should no longer be used unquestionably as the working method for standard-setting initiatives. It was true that the balance had to be struck between drafting a text that enough States would ratify and maintaining the highest standard of human rights protection. The majority of States in favour of a strong text should make every effort to persuade the State, or the few States obstructing adoption of a broad consensus text to reconsider their position. One State, or a small minority of States, should not be allowed to undermine a broad international consensus on a strong text, especially when the instrument was optional. Ultimately, in order to avoid the lowest common denominator approach, voting on the text might be necessary. It was the view of Amnesty International that the text currently before the working group did not yet provide the necessary protection for children at risk of participating in hostilities and recruitment into armed forces.

46. The observer for Egypt confirmed the comments of his Government as contained in document E/CN.4/1998/WG.13/2. His delegation thanked the Chairman-Rapporteur for his efforts and expressed the wish that the "Chairman's perception" paper would become an acceptable text for all participants. To achieve this goal, acceptable language should be found to express that the optional protocol was without prejudice to self-determination and that the right to self-determination could not be used to impair the best interests of the child.

47. The representative of Poland welcomed the fact that the overwhelming majority of States and intergovernmental and non-governmental organizations were in favour of an 18-years age limit for participation in hostilities and considered that the same age limit should be set to protect children from recruitment into armed forces. He shared the view expressed by some delegations that national legislation should not be presented as an obstacle to the success of the working group's exercise, especially bearing in mind the optional character of the future protocol. Another issue of importance to his delegation was the implementation mechanism to the protocol, as proposed in "new article D". He believed that the protocol could not work properly without a procedure for verification fixed within it.

48. The representative of Germany expressed disappointment that despite the willingness demonstrated by the great majority of delegations, it had not been possible to arrive at results allowing the Chairman-Rapporteur to formulate his perception of the status of work as being near consensus. This was due to the position of a very small minority of delegations unable to join an emerging near-consensus on practically all contentious issues. Indeed, the perception paper tabled by the Chairman following open-ended consultations reflected positions which were as close as the working group could achieve to reaching consensus. Although the perception paper did not fully reflect Germany's position on all issues, the delegation could have accepted it in its entirety in an effort to clear the way for the adoption of an optional protocol, which should not be postponed any longer. Notwithstanding this, Germany would have preferred a few changes. In article 1, reference to participation should be without the qualification "direct". There should be no place for reservations to the protocol; thus article 5 should be deleted. Germany shared the view of those delegations which had spoken in favour of retaining "new article D" or the concept contained therein (see paragraph 86 below). In view of the inability of the working group to solve the outstanding problems, Germany questioned if there was any ground for the working group to continue its work. With all arguments having been made, there was now a clear need for political decisions. It was up to the Commission on Human Rights to give the required guidance. Germany expressed the hope that another year was not to be lost before an optional protocol would be adopted which would significantly raise the level of the protection of children in armed conflicts.

49. The observer for the Netherlands underlined that the "Chairman's perception" paper constituted the only feasible way to move forward. Official negotiations had resulted in a deadlock. The Commission on Human Rights should now decide what was to be done. Concerning specific articles, he agreed with the core article, article 1. For reasons of coherence with the Convention on the Rights of the Child, the inclusion of the term "a direct part" was necessary. Equally, he was satisfied with article 2 on recruitment, although the phrasing of paragraph 3 created a loophole. The article on recruitment by armed groups was not completely satisfactory, but could stand as a compromise. He was less happy with the article on reservations. In his view, no reservations to an optional protocol should be acceptable. Lastly, the disappearance of "new article D" was to be regretted, as the lack of implementation of the current standards needed correction.

50. The representative of France thanked the Chairman-Rapporteur for the efforts he had made in order to reach a solution and permit the adoption of the draft protocol. The "Chairman's perception" paper appeared to her delegation to represent a basis for an acceptable compromise capable of improving the protection of children in armed conflicts. Her delegation saw only advantages in including it in an annex to the report of the working group.

51. The representative of Cuba interpreted the inclusion of the "Chairman's perception" paper in the report as an element to be taken into account in the future work of the group. She reiterated that the paper in no way reflected all positions and, of course, could not be utilized or invoked in the working group in a way that would prejudice future negotiations. There was no consensus in the working group and, following the rules and procedures, Cuba would therefore take the official text as the basis for work. Regarding the inclusion of non-governmental armed groups, moreover, Cuba reiterated its concern that States would be made to assume responsibility for matters that were beyond their reach. If others considered that type of reference essential, it should remain in the preamble. Furthermore, Cuba restated its view that "new article D" went far beyond the objectives of the protocol. Children in armed conflicts was one of the topics contained in the Convention, but not the only one, and the investment should afford equal attention to all its articles. The "new article D" was unnecessary and lacked a true perspective within the broad content of the Convention and the work of the Committee.

52. The observer for Norway thanked the Chairman-Rapporteur for his efforts to arrive at a consensus and regretted that the working group had not been able to reach an agreement. The "Chairman's perception" paper was in the main acceptable to the delegation of Norway. It would, however, prefer to delete the word "direct" in article 1. Furthermore, his delegation would prefer to retain article 5 and "new article D" and not to have any possibility for reservations in the optional protocol.

53. The representative of Canada thanked the Chairman-Rapporteur for his considerable efforts to make the optional protocol a reality. Although the "Chairman's perception" did not reflect Canada's preferred position on every issue, his delegation believed that it was a very well-balanced text that merited careful reflection beyond the present session of the working group. The delegation of Canada would like to see the full text of the "Chairman's perception" faithfully recorded in the report of the meeting.

54. The observer for Costa Rica expressed his concern at the effects of armed conflicts on persons younger than 18 years. With respect to article 1, he agreed with the proposal to delete the word "direct" and avoid any situation that would impair the physical, mental and educational development of minors under 18 years of age or would in any way jeopardize their rights. With regard to article 2, the delegation of Costa Rica stated that compulsory or voluntary recruitment of minors into armed forces or armed groups whether regular or irregular could not take place below 18 years of age. With respect to article 5, his delegation believed that, since the protocol was optional, no reservations of any type should be allowed. It recognized the immense value of the coming generations and shared the desire not to expose them to

violence at a very early age. His delegation considered it highly useful for the document resulting from the informal consultations to be annexed to the report that the Chairman would present at the session of the Commission on Human Rights in due course.

55. The observer for Australia expressed the regret of his delegation that no consensus had been reached by the working group during its fourth session. The delegation appreciated the efforts of the Chairman-Rapporteur and believed that his perception paper adequately reflected the outcome of the informal consultations and the progress made at the session, even though it did not meet all the interests of the delegation of Australia. In particular, his delegation did not support a broad exception for military schools. It also considered that no reservations to the protocol should be permitted. Nevertheless, the delegation of Australia strongly supported the annexing of the "Chairman's perception" paper to the report of the working group and considered that the paper could be the basis of future work on the draft optional protocol.

56. The representative of Guatemala wished to express his gratitude to the Chairman for the efforts made to achieve progress in the working group; the adoption of a protocol that would require States Parties to take the necessary measures to prevent the participation of children in armed conflict constituted a very valuable and essential contribution to international human rights norms aimed at putting an end to that practice. The delegation of Guatemala believed that insufficient progress had been made, despite the efforts of various delegations. The participation of children under 18 in conflicts or their recruitment into armies or non-governmental armed groups was unacceptable from any human rights perspective, even in the event that the children concerned enlisted voluntarily. Finally, his delegation hoped that a way forward could be found from the impasse existing in the working group, and if an annex II to the report, entitled "Chairman's perception", could help in finding the way, his delegation would be prepared to consider that solution.

57. The delegation of Colombia believed that it was essential that the draft protocol should be supported and inspired, inter alia, by the close linkage currently recognized between human rights and international humanitarian law, which were to be seen not as separate compartments but as a universe, a whole in which the prime subject was the human person. In that context, the essential obligations which emanated from the draft, namely the prohibition of the recruitment of children and the prevention of their participation in hostilities, should not only be assumed by States but should also be extended to all parties involved in an armed conflict. In the same way, his delegation believed that recruitment of minors under 18 years of age should be prohibited, regardless of whether their participation in conflicts was direct or indirect. It was also in favour of a provision requiring States to classify that type of recruitment as an offence under their criminal law.

58. The representative of India stated that recruitment into armed forces began in his country from the age of 16. All recruits underwent training for a minimum of at least two-and-a-half years. His delegation had no difficulty with 18 years as the limit for participation in hostilities. There was no compulsory recruitment in India. Discussion was going on within the Government about the possibility of raising the age limit for voluntary

recruitment from 16. The position of his delegation was that the national situation concerning the matter should not prevent the setting of a higher standard which would be in the best interests of children across the world. The delegation of India believed that this was an important exercise with a noble goal and shared the disappointment over lack of progress.

59. The representative of Venezuela first expressed his interest in the swiftest possible approval of the additional protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts. Secondly he wished to state the position of Venezuela with regard to the articles of the draft protocol discussed at the session which was concluding. Concerning article 1, his delegation believed that it was essential to establish the minimum age of 18 years for participation in any type of hostilities; furthermore, it would prefer the deletion of the word "direct" in the definition of the type of participation in armed conflicts that would fall within the scope of that article. With respect to article 2, paragraph 2, his delegation believed that military recruitment should in no case be conducted before the age of 18 years. With regard to article 3, concerning the recruitment of persons by armed groups distinct from the armed forces of the State, he considered the wording contained in the "Chairman's perception" paper to be acceptable. As for article 5, his delegation was against any form of reservation to the optional protocol because, like other delegations, it believed that such reservations were not appropriate in an instrument whose acceptance by States was in fact discretionary. On more than one occasion, "realism" had been invoked in that scenario as an argument for restricting the protection of human rights in general, and of the rights contained in the additional protocol in particular. His point of view was the opposite: the goal of human rights standards, and of humanitarian law as well, was to change the negative aspects of reality for the better. Fortunately, such change was being achieved, although gradually and by degrees, through at least 50 years of effort. Finally, he wished to commend the efforts by the Chairman to guide the discussions towards the necessary consensus, whose final expression, as far as the current session was concerned was represented by the "Chairman's perception" paper. His delegation considered that document to be positive as a whole, and a very good basis for the future work of the group, and requested that it should be included in the report of the current session.

60. The observer for Sweden expressed disappointment that the working group had been unable to reach an agreement on the key issues of the draft optional protocol. Sweden was in favour of an 18-year age limit for participation in hostilities. It also had a similar position on the issue of recruitment, recognizing the linkage between articles 1 and 2.

61. The observer for Finland confirmed the support of his delegation for the age limit of 18 years for any type of recruitment and participation by children in armed conflicts. No reservations to the protocol should be allowed. Although the "Chairman's perception" paper was not perfect, it seemed to reflect a near-consensus and should therefore be annexed to the report of the working group.

62. The representative of the United Kingdom of Great Britain and Northern Ireland expressed disappointment that it had not been possible to reach a consensus on the text of the draft optional protocol, despite the

strenuous and comprehensive efforts made by the Chairman-Rapporteur. In particular, although the "Chairman's perception" paper did not fully reflect his delegation's preferences in a few important aspects, the United Kingdom would not have blocked the consensus on the terms set out in this paper, and thus would wish to see it annexed to the report of the working group. Nonetheless, he would have preferred to see the age "17" appear in article 1 and the age "16" appear in paragraph 2 of article 2. Moreover, he would also have preferred the text which appeared in the annex of last year's report as "new article A", rather than the text which appears in article 3 of the "Chairman's perception" paper.

63. The delegation of Belgium regretted that a minority of Governments appeared to lack the political will to make progress in the development of clear standards. Belgium accepted only a minimum age of 18 for (a) direct or indirect involvement in hostilities; (b) voluntary or involuntary recruitment both by the armed forces and by non-governmental armed groups. Given that the "Chairman's perception" seemed to be a near-consensus, it was necessary to include it as an annex to the report, for the purposes of future work.

64. The representative of the Russian Federation confirmed the position of his delegation in favour of an 18-years age limit for both recruitment and participation in hostilities. He expressed disappointment at the slow progress in the work on the draft optional protocol. In the view of his delegation, there was a need for additional legal devices which could ensure the best protection of the interests of the child and which would reflect both the practice and the reality. In this connection, the representative of the Russian Federation drew the attention of the working group to the new article (final provisions) proposed by his delegation which read as follows:

> "Nothing in this Protocol shall be invoked to circumvent, to deny or to impair the best interests of the child."

65. The representative of the United States of America expressed disappointment with the outcome of the session. After four years, there was still no consensus on any of the five key issues under negotiation. He noted that a significant minority (at least six of the participating countries) favoured 17 for the age on participation, which was not insignificant given the relatively small number of participants in the negotiations. He noted that there was no consensus on the use of "direct", the age of enlistment, military schools, or organized armed groups, and could not agree to any characterization of the Chairman's text as reflecting a consensus or near-consensus on any issue. He noted that there remained a deadlock on most key issues. He indicated that the working group should be focusing on where there was agreement, not on where there was disagreement. He noted that there was in fact a consensus on banning participation by 16-year-olds and those under 17, as well as recruitment of those under 17. He expressed regret that for many, no agreement was acceptable unless 18 was the age, and this "all or nothing" approach was unfortunate. He urged all concerned to support an agreement that reflected what was in fact a real consensus, which would extend current treaty standards by two years and which would constitute progress.

Finally, he noted that the protocol did not address the sad reality that the existing treaty prohibitions banning the use of 15-year-olds were not respected and that adopting even higher standards under those circumstances was not likely to increase respect for international norms.

66. The representative of the Czech Republic stated that his Government supported all the efforts leading to the adoption of the draft optional protocol ensuring the highest possible standards of protection of the rights of the child. His delegation regretted that the current session of the working group could not reach consensus. Bearing in mind that consensus seemed rather distant under the current circumstances, and in view of the chance to reach near-consensus, it was of the opinion that the extension of the mandate of the working group for one year should be considered. However, if there was a chance of concluding the work of the working group during the fifty-fourth session of the Commission on Human Rights, the Czech Republic was prepared to do its best to contribute to such conclusion. In that regard, his delegation appreciated the enormous effort of the Chairman-Rapporteur and welcomed his paper, which should be part of the report and represented a very good basis for near-consensus. The Czech Republic remained open to any consideration leading to a consensual text. However, the delegation wished to underline its opinions as reflected in the respective paragraphs of the report.

III. PROPOSALS CONCERNING THE DRAFT OPTIONAL PROTOCOL

A. Preamble

67. During the plenary meetings of the working group, no formal proposals concerning the text of the preamble were submitted. A discussion of several issues relating to the preamble was pursued during informal meetings with some proposals being submitted. The text of the preamble remained unchanged (see annex I).

B. Article 1

68. At the 1st meeting, on 2 February 1998, the working group began its consideration of article 1 of the draft optional protocol as contained in the annex to document E/CN.4/1997/96.

69. The representative of the United States indicated that the option [18] was not acceptable to his delegation. That position was subsequently shared by the representative of the Republic of Korea and the observer for Kuwait. All other speakers were in favour of or ready to accept the "18" years option.

70. In view of the absence of agreement, the Chairman-Rapporteur proposed to move to the consideration of other articles.

C. Article 2

71. At its 1st meeting, on 2 February 1998, the working group began its consideration of article 2, as contained in the annex to document E/CN.4/1997/96.

72. The Chairman-Rapporteur suggested that the working group should concentrate on paragraph 2 of article 2 which still contained several options in brackets, and subsequently to discuss paragraph 4 in informal meetings.

73. Concerning the three options of age limit for voluntary recruitment in paragraph 2, various delegations expressed their preferences as follows:

(a) The representatives of the United Kingdom and Pakistan indicated that whilst their delegations retained a preference for the "16" years option, they would not block an emerging consensus on "17" years. The "16" years option was also supported by the observer for the Islamic Republic of Iran;

(b) The representatives of Austria, Brazil, Canada, China, Cuba, France, Germany, Italy, the Republic of Korea, South Africa and the United States and the observers for Australia, the Netherlands, New Zealand and Norway spoke in favour of the "17" years option. At the same time, the delegations of Norway, Portugal and Denmark indicated that they could also consider the possibility of accepting the "18" years option;

(c) The representatives of Chile, the Czech Republic, Denmark, El Salvador, Guatemala, Italy, Japan, Morocco, Poland, the Russian Federation, Sri Lanka, Uruguay and Venezuela and the observers for Colombia, Costa Rica, Egypt, Ethiopia, Finland, the Holy See, Slovakia, Sweden, Switzerland and the Syrian Arab Republic indicated their support for the "18" years option. This position was also supported by the observers for UNHCR, UNICEF, ICRC, the International Federation of Red Cross and Red Crescent Societies, the Friends World Committee for Consultations (Quakers), the World Christian Life Community, the International Federation Terre des Hommes, Human Rights Watch, Amnesty International, Save the Children Alliance and New Humanity;

(d) The representative of Cuba expressed her preference for article 2 of the "Chairman's perception" of April 1997, which gave the age of 17 as the only option for recruitment, without making a distinction between voluntary and compulsory recruitment.

74. The text of this article remained unchanged (see annex I).

D. New article A

75. At the 2nd meeting, on 2 February 1998, the working group began its consideration of new article A, as contained in the annex to document E/CN.4/1997/96.

76. The representative of Cuba reiterated the support of her delegation for the proposal of the delegation of China made during the third session of the working group in 1997 that this article should be moved to the preambular part of the optional protocol. This proposal was supported by the representative of China and by the observers for the Islamic Republic of Iran and the Syrian Arab Republic. The proposal was opposed by the representatives of Canada, the Czech Republic, Germany, Mexico, Peru, the United Kingdom, Uruguay and Venezuela and by the observers for Australia, Belgium, Finland, the Netherlands, New Zealand, Norway, Portugal and Slovakia.

77. Consideration of the issues relating to new article A was continued during the informal meetings with several proposals being submitted. In view of the absence of agreement, the text of new article A remained unchanged (see annex I).

E. Article 4

78. At the 2nd meeting, on 2 February 1998, the working group began its consideration of article 4 as contained in the annex to document E/CN.4/1997/96.

79. The representative of Cuba proposed to replace the present text of article 4 by the text contained in the "Chairman's perception" paper reading as follows:

> "No reservation is admissible to article 1 of the present Protocol."

This proposal was supported by the representative of China and by the observer for Egypt. The representative of China further indicated that her delegation could also consider the other options.

80. The representatives of the Czech Republic, Germany, Italy, the Russian Federation, Sri Lanka, Uruguay and Venezuela and the observers for Costa Rica, Ethiopia, Finland, the Netherlands, Norway, Portugal and Slovakia spoke in favour of the first option of article 4.

81. The representatives of Brazil, France, Guatemala, South Africa, the United Kingdom and the United States and the observers for Colombia, the Dominican Republic, New Zealand and the Syrian Arab Republic supported the third option.

82. The observer for the Islamic Republic of Iran, while supporting the third option, proposed the following new wording for this article:

> "States should avoid making reservations incompatible with the object and the purpose of the present Protocol."

83. Consideration of this article was continued during the informal meetings of the working group with some proposals being submitted. The text of the article remained unchanged (see annex I).

F. New article D

84. At the 2nd meeting, on 2 February 1998, the working group considered new article D as contained in the annex to document E/CN.4/1997/96.

85. The representatives of China, Cuba and Peru and the observer for the Syrian Arab Republic considered this article to be unnecessary and proposed its deletion.

86. The representatives of Colombia, the Czech Republic, El Salvador, Germany, Guatemala, Italy, Poland, the Russian Federation, Sri Lanka and Uruguay and the observers for Australia, Belgium, Costa Rica, Finland, the Netherlands, New Zealand, Norway, Portugal, Romania and Slovakia considered that the article or the concepts contained therein should be retained.

87. The observer for Egypt proposed to replace this article by new wording to be added at the end of article 5, reading as follows:

"and clarification of any alleged breach of these provisions."

88. Subsequent to the consideration of new article D by the working group, its text remained unchanged (see annex I).

G. Article 6

89. At its 2nd meeting, on 2 February 1998, the working group considered article 6 of the draft optional protocol, as contained in E/CN.5/1997/96, which read as follows:

"[Article 6]

[The provisions of the present Protocol shall apply to the States Parties in addition to the provisions of the Convention on the Rights of the Child]".

90. The observer for Ethiopia proposed the deletion of the article. The proposal was supported by the representatives of China and Cuba and by the observers for Egypt and the Syrian Arab Republic.

91. The working group agreed to delete article 6 from the draft optional protocol.

Annex I

DRAFT OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON INVOLVEMENT OF CHILDREN IN ARMED CONFLICTS

The States Parties to the present Protocol,

Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists to strive for the promotion and protection of the rights of the child,

Reaffirming that the rights of children require special protection and call for continuous improvement of the situation of children without distinction, as well as for their development and education in conditions of peace and security,

Considering that to further strengthen the implementation of rights recognized in the Convention on the Rights of the Child, there is a need to increase the protection of children from involvement in armed conflicts,

Noting that article 1 of the Convention on the Rights of the Child specifies that, for the purpose of that Convention, a child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier,

Convinced that an optional protocol to the Convention, raising the age of possible recruitment of persons into armed forces and their participation in hostilities, will contribute effectively to the implementation of the principle that the best interests of the child are to be a primary consideration in all actions concerning children,

Noting with satisfaction that the twenty-sixth International Conference of the Red Cross and Red Crescent in December 1995 recommended that parties to conflict take every feasible step to ensure that children under the age of 18 years do not take part in hostilities,

Bearing in mind that conditions of peace and security based on full respect of the purposes and principles contained in the Charter of the United Nations and observance of applicable human rights instruments are indispensable for the full protection of children, in particular during armed conflicts and foreign occupation,

Convinced of the need to strengthen international cooperation regarding the physical and psychosocial rehabilitation and social reintegration of children who are victims of armed conflicts,

Recognizing with grave concern the growing trend towards recruitment, training and use of children in hostilities by armed groups,

Have agreed as follows:

Article 1

States Parties shall take all feasible measures to ensure that persons who have not attained the age of [18] [17] years do not take [a direct] part in hostilities.

Article 2

1. States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

2. States Parties shall ensure that persons who have not attained the age of [16] [17] [18] years are not voluntarily recruited into their armed forces.

3. States Parties shall ensure that every person who chooses to enlist into their armed forces before reaching the age of 18 does so of his or her own free will and, unless he or she has already attained majority, with the full and informed consent of those legally responsible for him or her.

4. [Paragraph 2 does not apply to education and vocational training in establishments operated by or under the control of the armed forces of the States Parties in keeping with articles 28 and 29 of the Convention on the Rights of the Child.]

New article A

[States Parties shall take all appropriate measures to prevent recruitment of persons under the age of 18 years by non-governmental armed groups involved in hostilities.]

Article 3

Nothing in the present Protocol shall be construed so as to preclude provisions in the law of a State Party or in international instruments and international humanitarian law which are more conducive to the realization of the rights of the child.

Article 4

[No reservation is admissible to the present Protocol.]

OR

[No reservation is admissible to articles ... and ... of the present Protocol.]

OR

[A reservation incompatible with the object and the purpose of the present Protocol shall not be permitted.]

Article 5

The States Parties to the present Protocol shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, information on the measures that they have adopted to give effect to the present Protocol.

New article D

[1. If the Committee receives reliable information which appears to it to contain well-founded indications that recruitment or use of children in hostilities, contrary to the provisions of the present Protocol, is being practised in the territory of a State Party, the Committee may request the observations of the State Party with regard to the information concerned.

2. Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may:

(a) Seek further clarification, information or comments from any source, including where applicable the source(s) of the original information;

(b) Hold hearings in order to clarify the situation.

3. The Committee may initiate a confidential inquiry, which may include a visit of its members (2-3) to the territory of the State Party concerned:

(a) Such a visit could take place only with the consent/after the consultation with the State Party concerned;

(b) If an inquiry is made in accordance with the present paragraph the Committee shall cooperate with the State Party concerned.

4. After examining the findings of its inquiry, made in accordance with paragraphs 2 and 3 of this article, the Committee shall transmit these findings to the State Party concerned together with any comments or recommendations which seem appropriate in view of the situation.

5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 3, the Committee may decide to include a summary account of the results of the proceedings in its annual report.]

Article 7

1. The present Protocol is open for signature by any State which is a party to the Convention or has signed it.

2. The present Protocol is subject to ratification or open to accession by any State which has ratified or acceded to the Convention. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

3. The Secretary-General of the United Nations in his capacity as the depositary of the Convention and the Protocol shall inform all States Parties to the Convention and all States which have signed the Convention of each instrument of ratification or accession to the Protocol.

Article 8

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after its entry into force, the present Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

Article 9

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States which have signed the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General of the United Nations. If, however, on the expiry of that year the denouncing State Party is engaged in armed conflict, the denunciation shall not take effect before the end of the armed conflict.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act which occurs prior to the date at which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

Article 10

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations together with the Convention on the Rights of the Child.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States which have signed the Convention.

Annex II

CHAIRMAN'S PERCEPTION

OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON INVOLVEMENT OF CHILDREN IN ARMED CONFLICTS

The States Parties to the present Protocol,

Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists to strive for the promotion and protection of the rights of the child,

Reaffirming that the rights of children require special protection and call for continuous improvement of the situation of children without distinction, as well as for their development and education in conditions of peace and security,

Considering that to further strengthen the implementation of rights recognized in the Convention on the Rights of the Child, there is a need to increase the protection of children from involvement in armed conflicts,

Noting that article 1 of the Convention on the Rights of the Child specifies that, for the purposes of that Convention, a child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier,

Convinced that an optional protocol to the Convention, raising the age of possible recruitment of persons into armed forces and their participation in hostilities, will contribute effectively to the implementation of the principle that the best interests of the child are to be a primary consideration in all actions concerning children,

Noting with satisfaction that the twenty-sixth International Conference of the Red Cross and Red Crescent in December 1995 recommended that parties to conflict take every feasible step to ensure that children under the age of 18 years do not take part in hostilities,

Recalling the obligation of each party to an armed conflict to abide by the provisions of international humanitarian law,

Recalling the purposes and principles contained in the Charter of the United Nations,

Bearing in mind that conditions of peace and security based on full respect of the purposes and principles contained in the Charter of the United Nations and observance of applicable human rights instruments are indispensable for the full protection of children, in particular during armed conflicts and foreign occupation,

Convinced of the need to strengthen international cooperation regarding the physical and psychosocial rehabilitation and social reintegration of children who are victims of armed conflicts,

Recognizing with grave concern the growing trend towards recruitment, training and use of children in hostilities by armed groups,

Have agreed as follows:

Article 1

States Parties shall take all feasible measures to ensure that persons who have not attained the age of 18 years do not take a direct part in hostilities.

Article 2

1. States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

2. States Parties shall not recruit into their armed forces any person who has not attained the age of 17 years.

3. Paragraph 2 does not apply to education and vocational training in schools, including those operated by or under the control of the armed forces of States Parties in keeping with articles 28 and 29 of the Convention on the Rights of the Child.

Article 3

1. Persons under the age of 18 years should not be recruited into armed groups, distinct from the armed forces of a State, which are parties to an armed conflict. States Parties shall take all feasible measures to prevent such recruitment.

2. The application of the present provision under the Protocol shall not affect the legal status of any party to an armed conflict.

Article 4

Nothing in the present Protocol shall be construed so as to preclude provisions in the law of a State Party or in international instruments and international humanitarian law which are more conducive to the realization of the rights of the child.

Article 5

A reservation incompatible with the object and purpose of the present Protocol shall not be permitted.

Article 6

States Parties undertake to make the principles and provisions of the present Protocol widely known, by appropriate and active means, to adults and children alike.

Article 7

The States Parties to the present Protocol shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, information on the measures that they have adopted to give effect to the present Protocol.

Article 8

1. The present Protocol is open for signature by any State which is a party to the Convention or has signed it.

2. The present Protocol is subject to ratification or open to accession by any State which has ratified or acceded to the Convention. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

3. The Secretary-General of the United Nations in his capacity as depositary of the Convention and the Protocol shall inform all States Parties to the Convention and all States which have signed the Convention of each instrument of ratification or accession to the Protocol.

Article 9

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after its entry into force, the present Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

Article 10

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States which have signed the Convention. Denunciation shall take effect one year after the date or receipt of the notification by the Secretary-General of the United Nations. If, however on the expiry of that year the denouncing State Party is engaged in armed conflict, the denunciation shall not take effect before the end of the armed conflict.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act which occurs prior to the date at which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

Article 11

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States which have signed the Convention.